

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

BUD LEE and CINDY LUNDMAN,)
as next friend and as natural parents of)
PATRICK LEE, deceased,)

Plaintiffs,)

v.)

METROPOLITAN)
GOVERNMENT OF NASHVILLE)
AND DAVIDSON COUNTY, *et al.*,)

Defendants.)

**Case No. 3:06-0108
Judge Trauger**

ORDER

For the reasons expressed in the accompanying Memorandum, the motions to dismiss of defendants Cregan, Mallery, and Smith as to the plaintiffs' state-law negligence claim (Docket Nos. 238, 245, and 252) are **GRANTED**; the summary judgment motions of defendants Fisher, Pinkelton, Scott, Wright, Mallery, Smith, and Brooks (Docket Nos. 232, 248, 255, and 309) are **GRANTED** and, therefore, defendants Fisher, Pinkelton, Scott, Wright, Mallery, Smith, and Brooks are **DISMISSED** from this case; the summary judgment motions of defendants Mays, Cregan, and Scruggs (Docket Nos. 232, 241, and 272) are **GRANTED IN PART** and **DENIED IN PART**, such that the plaintiffs' 42 U.S.C. § 1983 excessive force claim and the plaintiffs' state-law battery claim remain viable against defendants Mays, Cregan, and Scruggs, but the remainder of the plaintiffs' case is dismissed as to these defendants.

The motions of defendants Fisher, Mays, Pinkelton, Scott, Wright, and Brooks (Docket Nos. 221, 223, and 308) to exclude the plaintiffs' proffered experts is **DENIED**. The motions to

strike of defendants Fisher, Mays, Pinkelton, Scott, Wright, Brooks, Scruggs, and the defendant Metropolitan Government of Nashville and Davidson County (“Metro”) (Docket Nos. 411, 413, 427, 438, and 442) are **DENIED AS MOOT**.

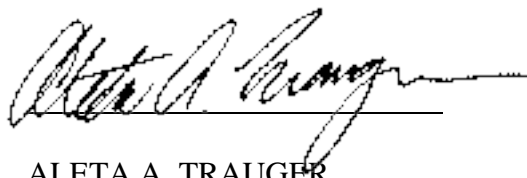
Metro’s Motion for Summary Judgment (Docket No. 279) is **GRANTED IN PART** and **DENIED IN PART**, such that the plaintiffs’ 42 U.S.C. § 1983 “failure-to-train” claim remains viable against Metro, but the remainder of the plaintiffs’ case is dismissed as to Metro.

Defendant Taser International, Inc.’s, (“Taser’s”) Motion for Summary Judgment (Docket No. 259) is **GRANTED**, and its other pending motions (Docket Nos. 275, 289, and 436) are **DENIED AS MOOT**. Taser is **DISMISSED** from this case.

The plaintiffs’ Motion to Re-open Discovery and To Compel (Docket No. 414) is **DENIED**, and the plaintiffs’ Motion for Leave to Manually File CDs (Docket No. 447) is **DENIED AS MOOT**.

It is so ordered.

Enter this 26th day of January 2009.

A handwritten signature in black ink, appearing to read 'Aleta A. Trauger', written over a horizontal line.

ALETA A. TRAUGER
United States District Judge